

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
June 17, 2003 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Kenneth Hart, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney

Participants

1. Roddy Miller Jr.
t/a Mr. Roddy General Contractor
File Number 2002-00041 (Disc)

Jaimaika James – C

2. Roddy Miller Jr.
t/a Mr. Roddy General Contractor
File Number 2002-02025 (Disc)

3. Stephen T. Chick
t/a Chick's General Contracting
File Number 2002-01999 (Disc)

Chick – R
Terry & Diana Hendrickson-C

4. Christopher A. Gay
t/a Elite Home Services
File Number 2002-02328 (Disc)

Raymond Chaney – C

5. Christopher A. Gay
t/a Elite Home Services
File Number 2002-03188 (Disc)

6. Christopher A. Gay
t/a Elite Home Services.
File Number 2003-01087 (Disc)

7. Ace Contracting Services Inc.
File Number 2002-03528 (Disc)
No Decision Made

Lawrence Fellenz – R
Francis Fellenz - R
Samia Khan - C
Azam Khan - C

8. James Johnson
t/a Jim Johnson Builders
File Number 2002-02992 (Disc)

Johnson – R
Heidi Overfelt – C
Michael Overfelt - C

9. Clifton Daisey
t/a Clif Daisey House Painting
File Number 2002-00788 (Disc)

Daisey – R
Jane Daisey – R

10. Joseph P. Vass
t/a Colonial Design & Builders Co.
File Number 2002-00709 (Disc)

Vass – R

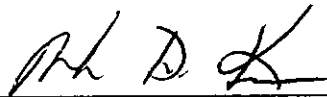
11. Project Management & Consulting Corp. Inc.
File Number 2002-01079 (Disc)

12. Dorsey J. Poling
t/a Luxury Bath & Kitchen of VA
File Number 2002-01577 (Disc)

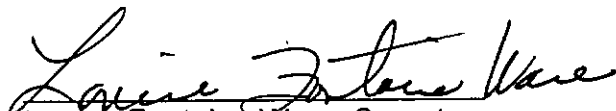
Poling – R
Margaret Sudder – C

The meeting adjourned at 6:25 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: RODDY MILLER, JR., T/A MR. RODDY GENERAL CONTRACTOR
LICENSE NUMBER 2705-049340**

FILE NUMBER: 2002-00041

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Roddy Miller, Jr., t/a Mr. Roddy General Contractor (Miller) on May 16, 2003. The following individuals participated at the conference: Jaimaika James, daughter of Karolynn James (Deceased), Complainant; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Roddy Miller, Jr., t/a Mr. Roddy General Contractor did not appear in person or by any other representative.

Summation of Facts

1. On May 19, 2001, Karolynn A. James ("James") entered into a contract with Roddy Miller, Jr., (Miller) t/a Mr. Roddy General Contractor, in the amount of \$8,656.00, to build two decks and pour a concrete driveway at 1232 Tree Ridge Road, Richmond, Virginia. The cost for the decks was \$3,456.00 and the cost of the driveway was \$5,200.00.
2. On July 5, 2001, the licensing records of the Board for Contractors revealed Roddy Miller, Jr., t/a Mr. Roddy General Contractor was issued Class C Contractor's license number 2705049340, with a building (BLD) specialty. Miller failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C contractor.

3. The contract used by Miller in this transaction failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date; (d) a "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance; (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning; (f) disclosure of the cancellation rights of the parties; (h) contractor's license expiration date, class of license/certificate, and classification or specialty services; and (i) statement that modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by both parties.

4. On June 21, 2001, James complained to Miller about the deck construction, rusty nails, split wood, uneven deck boards and numbers on the boards on the deck. Miller told James that he would return and replace 24 deck boards. As of September 18, 2001, Miller failed to honor his promise to return and replace the 24 deck boards.

Also, on May 29, 2001, and June 21, 2001, James complained to Miller regarding the rough cement (crumbling in places), a crack in the concrete, a wooden peg sticking out of the center of the driveway, and the dirt that went around the driveway. When James was asked about the driveway on June 21, 2001, he walked away.

5. James entered into a contract with Miller in the amount of \$8,656.00 to build two decks and pour a concrete driveway. The cost of the decks was \$3,456.00, and the cost of the driveway was \$5,200.00. James paid Miller \$8,656.00. On or about October 26, 2001, in the General District Court for the County of Henrico, James obtained a \$8,656.00 judgment against Miller. As of March 19, 2002, Miller failed to satisfy the judgment.

6. On July 5, 2001, Investigator Philip Underwood, the Board's Agent, made a written request, via first class mail, to Miller at his address of record of 1801 North 29th Street, Richmond, Virginia 23223, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's Agent requested this information be received by July 20, 2001.

7. On July 13, 2001, Richard A. Moore, Senior Building Official, Henrico County Building Construction and Inspections, confirmed that Miller violated Section 109.1 of the Virginia Uniform Statewide Building Code by failing to obtain a building permit.

8. On or about August 8, 2001, the Board's Agent forwarded an address certification request to the United States Postal Service (USPS). The USPS returned the request form on August 14, 2001. The USPS indicated, on the form, that Miller received mail at 1801 North 29th Street, Richmond, Virginia 23223.

9. On August 9, 2001, the Board's Agent made a second written request, via first class mail, to Miller at his address of record of 1801 North 29th Street, Richmond, Virginia 23223, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's Agent requested this information be received by August 14, 2001.

10. As of March 19, 2002, Miller had failed to respond to the Board's Agent.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(1) (Effective May 1, 1999), to wit: § 54.1-1103 of the Code of Virginia.

Miller's actions of engaging in contracting without the required license is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(1), to wit: § 54.1-1103 of the Code of Virginia, therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Miller's license.

Count 2: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Miller's failure to make use of a legible written contract that contains all provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), therefore, I recommend a monetary penalty of \$1000.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Miller's failure or refusal to obtain the required permit is misconduct in the practicing of contracting in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$1000.00 be imposed, along with revocation of Miller's license.

Count 4: 18 VAC 50-22-260(B)(6) (Effective May 1999)

Miller's failure or refusal to honor a verbal promise to make repairs, after promising to do so, is misconduct in the practice of contracting in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$2000.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Miller's failure or refusal to satisfy a judgment entered against him by a court of competent jurisdiction is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Miller's license.

Count 6: 18 VAC 50-22-260(B)(11) (Effective May 1, 1999)

Miller's failure or refusal, upon written request or demand, to respond to an investigator seeking information in a complaint filed with the Board is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(11), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Miller's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: RODDY MILLER, JR., T/A MR. RODDY GENERAL CONTRACTOR
LICENSE NUMBER 2705-049340**

FILE NUMBER: 2002-02025

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Roddy Miller, Jr., t/a Mr. Roddy General Contractor (Miller) on May 15, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Roddy Miller, t/a Mr. Roddy General Contractor did not appear in person or by any other representative.

Summation of Facts

1. On February 14, 2001, ChoongKil Lee (Lee) entered into a contract with Roddy Miller Jr. (Miller), t/a Mr. Roddy General Contractor, in the amount of \$8,000, for the construction of

a 36' x 50' foundation and slab for a business at 2913 Nine Mile Road, Richmond, Virginia. The contract included rough-in for sewer and water lines, and all drains in concrete slab.

2. On December 28, 2001, the licensing records of the Board for Contractors revealed Roddy Miller Jr., t/a Mr. Roddy General Contractor, was issued Class C Contractor's license number 2705049340 on March 18, 1999.

Title 54, Chapter 11, § 54.1-1100 defines a "Class B contractor" as a contractor who performs or manages construction removal, repair or improvements when the total value referred to in a single contract or project is \$7,500 or more.

Title 54, Chapter 11, § 54.1-1100 defines a "Class C contractor" as a contractor who performs or manages construction removal, repair or improvements when the total value referred to in a single contract or project is over \$1,000 but less than \$7,500.

Miller failed to obtain a Class B contractor license to perform work in excess of the \$7,500 value limit of a Class C contractor.

3. Lee provided Miller with plans, dated September 12, 2000, prepared by Rawlings, Wilson & Associates Architects Planners, for Love's Convenience Store which specified that the foundation footings would be 12 inches in thickness.

4. After the footings were installed, Lee hired Lincoln K. Swineford (Swineford), Field Services Engineer with Engineering Consulting Services LTD., to inspect the footings. Swineford took four concrete core samples from the footings at the job site. In a final report dated May 3, 2001, Swineford reported that the average core thickness ranged from 5.47 inches to 6.27 inches, which was less than the 12 inch thickness specified in the plans.

Miller corrected the thickness depth by installing forms around the foundation and pouring additional concrete to get the 12 inch thickness. The additional plywood and concrete was supplied by Lee.

5. On or about April 12, 2002, Miller told Investigator E. Nathan Matthews, the Board's Agent, that he agreed to construct the foundation slab as specified by the plans provided by Lee. Miller also admitted that he constructed 8 inch deep foundation footings instead of the 12 inch thick as specified in the plans.

6. After the foundation was installed, Lee wanted Miller to install the rough-in for the sewer and water, and install the drains. Miller told Lee that this was included in the contract by mistake.

7. Lee paid Miller \$4,000.00 by check dated March 20, 2001, as a down payment.

8. On or about June 2001, Lee verbally terminated Miller from the job because he no longer trusted him to perform the work as required by the contract. Miller refused to return any part of the \$4,000 down payment.

9. On or about October 20, 2001, Lee filed a Warrant In Debt against Miller in the General District Court, for the City of Richmond, seeking a civil judgment in the amount of \$3,000, for improper work and work not completed.

10. On or about December 27, 2001, in the General District Court, for the City of Richmond, Lee was awarded a \$2,000.00 judgment against Miller. As of May 1, 2002, Miller had failed to satisfy the civil judgment.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(1) (Effective May 1, 1999), to wit § 54.1-1103 of the Code of Virginia

Miller's actions of engaging in contracting without the required license is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(1), to wit: § 54.1 1103 of the Code of Virginia, therefore I recommend a monetary penalty of \$2500.00 be imposed for violation of the regulation, along with revocation of Miller's license.

Count 2: 18 VAC 50-22-260(B)(6) (Effective May 2, 1999)

Miller's failure to install the footings as contracted is misconduct in the practice of contracting in a violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore I recommend a monetary penalty of \$2500.00 be imposed for violation of the regulation, along with revocation of Miller's license.

Count 3: 18 VAC 50-22-260(B)(28) (Effective September 1, 2001)

Miller's failure to satisfy the judgment is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(28), therefore I recommend a monetary penalty of \$2500.00 be imposed for violation of the regulation, along with revocation of Miller's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: STEPHEN T. CHICK, T/A CHICK'S GENERAL CONTRACTING
LICENSE NUMBER 2705-035484**

FILE NUMBER: 2002-01999

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stephen T. Chick, t/a Chick's General Contracting (Chick's) on May 15, 2003, and by Amended Notice on June 11, 2003. The following individuals participated at the conference: Stephen T. Chick, t/a Chick's General Contracting, Respondent; Terry and Diana Hendrickson, Complainants; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member.

Summation of Facts

1. On February 15, 2001, Terry and Diana Hendrickson (Hendricksons) entered into a written contract with Chick's General Contracting, Inc., in the amount of \$1,551.00, to wrap seven contours, fascia, rake, and soffit; wrap gable vent; replace gutters and downspouts; replace three porch posts; and wrap porch beam at 4215 Peppertown Road, Mechanicsville, Virginia.
2. On February 15, 2001, the Hendricksons entered into a second written contract with Chick's General Contracting, Inc., in the amount of \$3,667.00, to replace windows, wrap all window sills, wrap front door sill, and hang new storm door.
3. On or about February 2001, the Hendricksons entered into a verbal agreement with Stephen T. Chick, t/a Chick's General Contracting (Chick), in the amount of \$6,200.00, to change the existing bathroom into a one and one-half bath.

Chick failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed for the remodeling of the bathroom.

4. On or about March 8, 2001, the Hendricksons paid Stephen T. Chick, t/a Chick's General Contracting, \$6,000 by check.

5. On or about May 1, 2001, the Hendricksons entered into another verbal agreement with Stephen T. Chick, t/a Chick's General Contracting (Chick), in the amount of \$4,000.00 to \$4,500.00, to re-side the entire house.

Chick failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed to re-side the entire house.

6. On or about November 1, 2001, the Hendricksons paid Stephen T. Chick, t/a Chick's General Contracting, \$12,486 by check.

7. On March 26, 2002, a review of the licensing records of the Board for Contractors revealed Steven T. Chick, t/a Chick's General Contracting, was issued a Class B Contractor's license number 2705035484, as a sole proprietorship, on August 28, 1996.

8. The contracts used by Chick in the transactions failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (b) any schedule of progress payments, (e) statement of assurance regarding local requirements for the building permits, inspections and zoning, (f) disclosure of cancellation rights, and (h) contractor's license expiration date, class of license/certificate, and classification or specialty services.

9. On or about March 12, 2001, Stephen T. Chick ("Chick"), t/a Chick's General Contracting, began the work at the Hendrickson's residence. Chick failed to obtain permits prior to the commencement of work.

10. On or about February 7, 2002, Brian Gentilini ("Gentilini"), Assistant Chief Building Official, Hanover County, issued a Notice of Violation to Chick for a violation of Section 109.1 of the Virginia Uniform Statewide Building Code, failure to obtain building, electrical or plumbing permits. Gentilini instructed Chick to abate the violation within 15 days of receipt of the Notice. As of March 25, 2002, Chick failed to obtain the required permits and abate the violation.

11. On or about March 27, 2002, in the Hanover County General District Court, Chick was found guilty of failure to complete application for permit and inspections not completed on work completed, in violation of Sections 109.1 and 114.4 of the USBC. Chick was ordered to pay a total of \$500.00 in fines.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective May 1, 1999)

Chick's failure to operate in the name in which the license was issued is in violation of the Board's 1999 Regulation 18 VAC 50-22-230(A), therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999) (2 Counts)

Chick's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed for the remodeling of the bathroom and the installation of the siding, is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8) (TWO COUNTS), therefore, I recommend a monetary penalty of \$750.00 be imposed for each violation for a total of \$1500.00.

Count 3: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999) (2 Counts)

Chick's failure to make use of a legible written contract that contains the minimum provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8) (TWO COUNTS), therefore, I recommend a monetary penalty of \$750.00 be imposed for each violation for a total of \$1500.00.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Chick's failure to obtain the required permits prior to commencement of work is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$2,000.00 be imposed.

Count 5: 18 VAC 50-22-260(B)(25) (Effective September 1, 2001)

Chick's failure to abate a violation of the Virginia Uniform Statewide Building Code, as amended, is in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(25), therefore, I recommend a monetary penalty of \$1000.00 be imposed.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER.

FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-035484 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: CHRISTOPHER A. GAY, T/A ELITE HOME SERVICES
LICENSE NUMBER 2705-059494**

FILE NUMBER: 2002-02328

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Christopher A. Gay, t/a Elite Home Services (Gay) on May 15, 2003. The following individuals participated at the conference: Raymond M. Chaney, Complainant; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Christopher A. Gay, t/a Elite Home Services did not appear in person or by any other representative.

Summation of Facts

1. On or about June 3, 2001, Raymond M. Chaney ("Chaney") entered into a contract with Christopher A. Gay ("Gay"), t/a Elite Home Services, in the amount of \$9,900.00, to perform some remodeling at 168 Mark Twain Drive, Newport News, Virginia.

The contract used by Gay in the transaction failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when the work is to begin and the estimated completion date, (d) a plain language exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (h) the contractor's address, license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

2. On June 3, 2001, a review of the licensing records for the Board for Contractors reveal that Gay was licensed as a Class C contractor, license number 2705-59494.

Title 54, Chapter 11, Section 54.1-1100 states "Class C Contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but no more than \$7,500 or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is no more than \$150,000. The Board shall require master certification as a condition of licensure or certification of electrical, plumbing and heating, ventilation and air conditioning contractors.

Title 54, Chapter 11, Section 54.1-1100 states "Class B contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$7,500 or more, but less than \$70,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any twelve-month period is \$150,000 or more, but less than \$500,000."

Gay failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.

3. Gay started the contracted work by removing half of the old roof and replacing it with a new roof. On or about August 17, 2001, Gay left the project without completing the other half of the roof, replacing the windows, bedroom wall, and damaged soffits, or painting. As of May 31, 2002, Gay failed to return to perform the contracted work.

4. The contract required Chaney to pay Gay \$4,950.00 to start the work. Chaney paid Gay \$2,000.00 down and promised to pay the additional \$2,950.00 within thirty days. On or about July 28, 2001, Chaney paid Gay \$2,000.00 towards the amount required to start the contracted work. During the IFF, Chaney stated that on or about August 16, 2001, he paid Gay \$950 to start the contracted work.

As of May 31, 2002, Gay failed to return any of the \$4,950.00 received for work not performed.

5. In a letter dated June 20, 2002, Neil Thompson, Director of Code Compliance, Newport News, told Investigator C. Richard Gage, the Board's Agent, that Section 110.0 of the Uniform Statewide Building Code required a building permit prior to the commencement of the work contracted for by Gay and that Gay failed to obtain the required building permit prior to commencing work.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Gay's failure to make use of a legible written contract that contains all provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), therefore, I recommend a monetary penalty of \$1800.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(1) (Effective May 1, 1999), to wit: § 54.1-1103 of the Code of Virginia

Gay's actions of engaging in contracting without the required (Class B) license is in violation of the Board's March 1999 regulation 18 VAC 50-22-260(B)(1), to wit: §54.1-1103 of the Code of Virginia, therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

Count 3: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Gay's failure to complete the work he contracted to perform is in violation of the Board's March 1999 regulation 18 VAC 50-22-260(B)(12), therefore, I recommend a monetary penalty of \$2000.00 be imposed, along with revocation of Gary's license.

Count 4: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Gay's retention of funds paid for work either not performed or performed only in part is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

Count 5: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Gay's actions of failing to obtain the required permit is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: CHRISTOPHER A. GAY, T/A ELITE HOME SERVICES
LICENSE NUMBER 2705-059494**

FILE NUMBER: 2002-03188

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Christopher A. Gay, t/a Elite Home Services (Gay) on May 15, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Christopher A. Gay, t/a Elite Home Services did not appear in person or by any other representative.

Summation of Facts

1. On or about March 29, 2002, Robert and Suzanne Dunbar (Dunbars) entered into a contract with Christopher A. Gay (Gay), t/a Elite Home Services, in the amount of \$1,680.00, to construct a new deck at 1361 Sanjo Farms Drive, Chesapeake, Virginia.
2. The contract used by Gay in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when

work is to begin and an estimated completion date; (e) a statement of assurance that the contractor will comply with local requirements for building permits, inspections, and zoning; (f) disclosure of cancellation rights of the parties; and (h) contractor's address, license number, license expiration date, class of license, and classifications or specialty services.

3. On or about March 29, 2002, the Dunbars paid Gay \$840.00 by check as a down payment.

4. Gay told the Dunbars he would begin work on or about April 4, 2002. Gay failed to begin the work on April 4, 2002 or at any time after that.

5. On or about April 7, 2002, Gay agreed to refund the Dunbars their deposit. On or about April 16, 2002, the Dunbars wrote Gay a letter demanding return of their deposit in fifteen days.

6. As of May 14, 2002, Gay failed to perform any work or return the deposit.

7. On or about May 12, 2002, Investigator Michael G. Lewis, the Board's Agent, made a written request to Gay at the address of record of 908 Emory Court, Virginia Beach, Virginia 23464, requesting a written response with supporting documentation to the complaint the Dunbars filed with the Board. The Board's Agent requested the response and documentation be received by May 24, 2002.

8. On or about May 22, 2002, a male individual, who identified himself as Gay, left a telephone voice mail message for the Board's Agent. Gay stated he had received the letter dated May 12, 2002, requesting a response to the complaint filed by the Dunbars. Gay told the Board's Agent he would submit a written response.

As of July 24, 2002, Gay failed to submit a response.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Failure by Gay to use a written contract containing the minimum requirements is in violation of Regulation 18 VAC 50-22-260(B)(9), therefore, I recommend a monetary penalty of \$1800.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Failure by Gay to complete the work contracted for, and to comply with the terms of the contract is in violation of Regulation 18 VAC 50-22-260(B)(15), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

Count 3: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Failure by Gay to refund funds paid for work not performed is in violation of Regulation 18 VAC 50-22-260(B)(16), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

Count 4: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Failure by Gay to respond to an investigator seeking information in the investigation of a complaint filed with the board against the contractor is in violation of Regulation 18 VAC 50-22-260(B)(13), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: CHRISTOPHER A. GAY, T/A ELITE HOME SERVICES
LICENSE NUMBER 2705-059494**

FILE NUMBER: 2003-01087

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Christopher A. Gay, t/a Elite Home Services (Gay) on May 15, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Christopher A. Gay, t/a Elite Home Services did not appear in person or by any other representative.

Summation of Facts

1. On or about August 30, 1989, in the Circuit Court of the City of Virginia Beach, Christopher A. Gay (Gay) pleaded guilty to Robbery, a Class 2 Felony. On or about October 17, 1989, Gay was sentenced to confinement in the penitentiary for 25 years with 10 years suspended on the condition that Gay maintain good behavior for 10 years and makes restitution.
2. On or about November 9, 2000, Christopher A. Gay (Gay), t/a Elite Home Services, submitted an application for a Class C Contractor's license. The Qualified Individual and Responsible Management of Elite Home Services was Gay.

Gay answered "No" to Question 25 of this application, which asked, "Has your business, Designated Employee, Qualified Individual(s), or Responsible Management been convicted in any jurisdiction of any felony?"
3. On October 7, 2002, Jennifer Kazzie, a/k/a Jennifer Hunt (Kazzie), Case Administrator of the Enforcement Division, received information from Raymond Chaney ("Chaney") that Christopher A. Gay ("Gay"), t/a Elite Home Services, was convicted of larceny. On or about October 17, 2002, Kazzie discovered Gay was convicted of robbery, a Class 2 Felony, in the Circuit Court of the City of Virginia Beach on October 17, 1989.
4. On or about October 17, 2002, the licensing records of the Board for Contractors revealed Christopher A. Gay, t/a Elite Home Services, was issued a Class C Contractor's license number 2705059494 on November 17, 2000. The licensing records further revealed Gay was the Responsible Management and Qualified Individual of Elite Home Services.

Conclusion and Recommendation

1. 18 VAC 50-22-260(B)(2) (Effective May 1, 1999)

Actions by Gay of furnishing substantially inaccurate or incomplete information to the board in obtaining a license is in violation of 18 VAC 50-22-260(B)(2), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Gay's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: JAMES JOHNSON, T/A JIM JOHNSON BUILDERS
LICENSE NUMBER 2705 038738**

FILE NUMBER: 2002-02992

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to James Johnson (Johnson) on May 14, 2003. The following individuals participated at the conference: James N. Johnson, t/a Jim Johnson Builders, Respondent; Michael and Heidi Overfelt, Complainant; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member.

Summation of Facts

1. On or about May 24, 2000, Michael and Heidi Overfelt ("the Overfelts") entered into a contract with Jim Johnson ("Johnson"), in the amount of \$89,500.00, for the construction of a second story addition to a house located at 7485 Big Island Highway, in Bedford, Virginia.
2. The contract used by Johnson in the transaction, was not a legible written contract that contained all provisions, as specified in the Board's regulations.
3. The contract specified a two heat pump zoned system to be installed with both units being a minimum of 2 ½ ton. On May 9, 2002, Investigator Renee H. Popielarz, the Board's Agent, went to the Overfelts residence and observed that both heat pump units are 2 ton.
4. As of June, 2001, the Overfelts paid Johnson, in full, to complete the second story addition. In June, 2001, Johnson walked off the job because of personal and financial issues.
5. As of December, 2001, Johnson failed to return to complete the work. As a result, the Overfelts told Johnson not to return.
6. As of March 31, 2002, Johnson failed to return to complete the work or refund the money received for work not performed or performed in part.

7. On September 6, 2001, Victor Crews ("Crews"), Inspector with Bedford County, issued a Field Correction Notice to the Overfelts and Johnson in reference to permit number 2219-00. The Notice cited violation of CABO code section 509.9 for ceiling joists in the kitchen area not being installed properly and according to the diagrams furnished by the engineer's report. There was no date of compliance on the Notice.
8. On October 30, 2001, Crews issued a Field Correction Notice to the Overfelts and Johnson in reference to permit number 2219-00. The Notice cited violation of CABO code for the kitchen area ceiling joists not being alleviated and the dryer ducts were not of rigid metal and did not terminate outside the home according to CABO code section 1801.1. There was no date of compliance on the Notice.
9. As of May 13, 2002, the permit was still open.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Johnson's failure to contain in his contract the minimum provisions required by the Board's Regulations, as specified in subsections (f) disclosure of the cancellation rights of the parties and (h) contractor's license number, expiration date, class of license and classification or specialty services and to make use of a legible written contract, is a violation of the Board's regulation 18 VAC 50-22-260(B)(8), therefore, I recommend a monetary penalty of \$700.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Johnson's failure to install 2 ½ ton heat pump units, as specified by the contract, is misconduct in the practice of contracting, in violation of the Board's regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$2400.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Johnson's actions of leaving the worksite before the construction was completed and not returning to complete the work after being paid in full for the work, is abandonment and intentional and unjustified failure to complete work contracted for, or retention or misapplication of funds paid, for which work is either not performed or performed only in part, in violation of the Board's regulation 18 VAC 50-22-260(B)(12), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Johnson's license.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Johnson's failure to correct the code violations, required by Section 509.9 and 1801.1 of the CABO Code, is misconduct in the practice of contracting, in violation of the Board's regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$2500.00 be imposed, along with revocation of Johnson's license.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 038738 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: CLIFTON F. DAISEY, T/A CLIF DAISEY HOUSE PAINTING
LICENSE NUMBER 2705 001925**

FILE NUMBER: 2002-00788

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Clifton F. Daisey (Daisey) on May 20, 2003. The following individuals participated at the conference: Clifton Daisey, t/a Cliff Daisey House Painting, Respondent; Jane Daisey, Respondent's wife; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member.

Summation of Facts

1. On or about December 23, 2000, Terrence Schofield ("Schofield") entered a verbal contract with Clifton Daisey ("Daisey"), t/a Clifton Daisey House Painting, in the amount of \$1,780.00, to remove wallpaper and paint the inside of his home at 5370 Cedar Drive, Chincoteague, Virginia.
2. Schofield paid Daisey \$900.00 as a down payment with the balance due at upon the completion of the work.
3. On or about February 2001, Daisey left the job site without completing the work as agreed. Daisey failed to perform any of the painting, as agreed, and only partially removed the wallpaper.
4. Daisey failed to return to the job site to complete the work.
5. On or about June 5, 2001, Schofield sent Daisey a letter requesting Daisey partially refund payments received for work not performed. Daisey failed to return to the job site and/or repay Schofield by June 15, 2001 as requested.
6. During the IFF, Daisey stated that he believed he was on a time and materials contract with Schofield, which is open ended as far as cost. Daisey worked seventy hours at \$25.00 per hour, which he believed was the standard rate in the area, which amount encompassed the \$1,780.00 agreement between the two parties.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Daisey's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, is a violation of the Board's regulation 18 VAC 50-22-260(B)(8), therefore, I recommend a monetary penalty of \$100.00 be imposed. In addition, I recommend Daisey successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the order. The conflict between the two parties would have been eliminated if a full contract with precise terms between the two parties had been agreed to.

Count 2: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Based on the record and the testimony presented at the IFF, I recommend a finding of no violation for abandonment under the Board's regulation 18 VAC 50-22-260(B)(12), simply because the agreement was a time and material proposal from the beginning of the transaction, and not a fixed price agreement.

Count 3: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Based on the record and the testimony presented at the IFF, I recommend a finding of no violation for retention of funds under the Board's regulation 18 VAC 50-22-260(B)(12), simply because the agreement was a time and material proposal from the beginning of the transaction, and not a fixed price agreement.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 001925 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

RE: JOSEPH P. VASS, T/A COLONIAL DESIGN & BUILD CO

LICENSE NUMBER 2705-022780

FILE NUMBER: 2002-00709

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Joseph P. Vass, t/a Colonial Design & Build Co. (Vass) on May 14, 2003. The following individuals participated at the conference: Joseph P. Vass, t/a Colonial Design & Build Co., Respondent; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member.

Summation of Facts

1. On or about February 27, 2001, Leigh and Patrick Banducci ("the Banducci's") entered into a contract with Joseph P. Vass ("Vass"), t/a Colonial Design and Build Co., in the amount of \$17,595.00, to finish the basement at 1313 Gatesmeadow Way, Reston, Virginia.
2. The contract used by Vass in the transaction failed to contain all the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when work is to begin, (d) a "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's license/certificate number, expiration date, class of license/certificate, and classification or specialty services; and (i) statement providing that any modification to the contract, which changed the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
3. The contract specified: work would be completed within 5 weeks of permit approval. Vass obtained a building permit and began work on or about March 2, 2001. The Banducci's paid Vass a total of \$17,250.00, which included all progress payments due under the contract except the final payment due upon completion.

The contract specified a schedule for progress payments as follows: \$2,500.00 at contract signing; \$2,500.00 upon framing completion; \$2,500.00 upon electrical and plumbing rough-in; \$2,500.00 upon drywall completion; \$2,500.00 upon doors and trim completion; \$2,500.00 upon painting and bath completion; balance (\$2,595.00) due upon total completion.

The Banduccis paid Vass a total of \$17,250.00 by six checks, which represented all progress payments due under the contract except the final payment due upon completion. In addition, the Banduccis included a payment of \$950.00 in their March 28, 2001 check to Vass for additional lighting which was not included as part of the original contract. Vass failed to provide written change orders to the Banducci's for this change to the contract's cost, materials, and work to be performed.

4. On or about July 6, 2001, Vass left the job when the project was nearing completion but before completing all punch work items. Vass failed to complete all items called for in the contract, including: hanging closet and utility room doors; hanging the shower curtain rod; installing cabinets and shelves; finalizing trim work and painting; and repairing drywall imperfections.
5. On or about July 6, 2001, Vass left the job when the project was nearing completion but before completing all punch work items. Vass failed to complete all items called for in the contract, including: hanging closet and utility room doors; hanging the shower curtain rod; installing cabinets and shelves; finalizing trim work and painting; and repairing drywall imperfections.
6. On or about July 14, 2001, the Banducci's faxed and mailed Vass a letter requesting that he complete the job by July 27, 2001. As of November 7, 2001, Vass failed to respond to the Banduccis' letter or return to complete all work he contracted to perform.
7. During the IFF, Mr. Vass testified that this was his second visit (IFF) with the Board in 2 years.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Vass' failure to make use of a legible written contract that contains all provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), therefore, I recommend a monetary penalty of \$1,500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Vass' failure to complete the work contracted is in violation of the abandonment provision of the Board's 1999 Regulation 18 VAC 50-22-260(B)(12), therefore, I recommend a monetary penalty of \$2,500.00 and revocation of his license be imposed.

Count 3: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Vass' failure to comply with the terms and conditions of the contract is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Vass' failure to use a written change order for this modification to the cost, materials, and work to be performed is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6), therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-022780 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

RE: PROJECT MANAGEMENT AND CONSULTING CORPORATION, INC.

LICENSE NUMBER 2705-062216

FILE NUMBER: 2002-01079

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 17, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Timothy Johnson, President, Project Management and Consulting Corporation, Inc. (Project Management) on May 15, 2003 and on May 22, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member. Timothy Johnson, President, Project Management and Consulting, Inc., the respondent, did not appear.

Summation of Facts

1. On or about September 14, 2001, the licensing records of the Board for Contractors revealed DreamBuilders of Virginia Incorporated was issued Class A Contractor's license number 2705-051238 on or about July 2, 1999 and expired on July 31, 2001. The records further indicated Tim Johnson ("Johnson"), President of DreamBuilders of Virginia Incorporated, as the Responsible Management.
2. On or about April 3, 2001, Johnson submitted an application for a Class A Contractor's license under the name of Project Management and Consulting Corporation Inc. Johnson was listed as the company's Responsible Management, Designated Employee and Qualified Individual.

Johnson answered "NO" to question #21 of the license application, which asked "Has your Designated Employee, Qualified Individual(s), or Responsible Management been a Responsible Manager in another contracting business that holds a current or an expired Virginia Contractor's License?" Johnson affirmed his statements and answers as true and his signature was notarized on the license application for Project Management and Consulting Corporation Inc. on April 3, 2001.

3. On or about April 6, 2001, the Board for Contractors issued Class A Contractor's license number 2705-062216 to Project Management and Consulting Corporation Inc., with Johnson, as Designated Employee, Qualified Individual, and Responsible Management.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(2) (Effective May 1, 1999)

Johnson's actions of furnishing inaccurate information to the Board in

obtaining a license is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(2), therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed for violation of the regulation.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-062216 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: DORSEY J. POLING, T/A LUXURY BATH & KITCHEN OF VA
LICENSE NUMBER 2705-043204**

FILE NUMBER: 2002-01577

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 27, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Dorsey J. Poling, t/a Luxury Bath &

Kitchen of Virginia (Poling) on May 20, 2003. The following individuals participated at the conference: Dorsey J. Poling, t/a Luxury Bath & Kitchen of VA, Respondent; Margaret G. Sudder, Complainant; Jennifer Kazzie, Staff Member; and Kenneth Hart, Presiding Board Member.

Summation of Facts

1. On or about June 19, 2001, Margaret G. Sudder ("Sudder") entered into a contract with Dorsey J. Poling ("Poling"), t/a Luxury Bath & Kitchen of Virginia, in the amount of \$4,400.00, for construction work at 291 Hardbarger Road, Buchanan, Virginia.
2. On or about July 12, 2001, Sudder entered into a second contract with Poling, in the amount of \$22,000.00, for construction work at 291 Hardbarger Road, Buchanan, Virginia.
3. On or about July 30, 2001, Sudder entered into a third contract with Poling, in the amount of \$25,218.00, for construction work at 291 Hardbarger Road, Buchanan, Virginia.
4. The contracts used by Poling in the transactions failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), subsections (a) when work is to begin and an estimated completion date, (d) a "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (h) contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
5. Poling was to remodel the bathroom, enclose a 6' x 12' front porch, and install replacement windows and vinyl siding. Sudder paid Poling a total of \$18,000.00 for the work he completed.
6. On or about October 17, 2001, Poling left the job and failed to return to complete installation of front steps, front door, two windows at the front of the house, staircase banister, shutters and kitchen floor.
7. Poling relocated the breaker box at 291 Hardbarger Road. According to Brandon Nicely, Building Inspector for Botetourt County, Virginia, this work performed by Poling required a licensed electrician.

On or about November 13, 2001, the licensing records of the Board for Contractors revealed Poling was issued Class B Contractor's license number 2705043204, with a building (BLD) specialty, on February 26, 1998. The licensing records further revealed Poling did not have an electrical (ELE) classification.

8. On or about November 21, 2001, Investigator Dale C. Amos, the Board's Agent, made a written request by certified letter to Poling at his address of record of 2801 Lee Highway, Troutville, Virginia 24175, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's Agent requested that the documentation be received by December 10, 2001.

9. On or about December 8, 2001, the letter was returned by the Postal Service marked "unclaimed". On January 3, 2002, the Board's Agent sent an address verification letter to the United States Post Office for Troutville, Virginia, which verified Poling received his mail at the address of record.

10. As of January 23, 2002, Poling failed to respond to the request.

11. During the IFF Poling testified that as a result of a court judgment, Poling agreed to refund the Sudders \$8,300.00.

12. Poling testified that the Sudders would not allow Home Depot to release the windows to Poling for installation. In addition, Poling could not return to the Sudders' property because the Sudders obtained a Notice on November 9, 2001, that prohibited Poling from entering the Sudders' property for any purpose.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Poling's failure to make use of a legible written contract that contains all provisions specified in the regulation is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(8), (THREE COUNTS), therefore, I recommend a monetary penalty of \$1,000.00 for each violation, for a total of \$3,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(23) (Effective May 1, 1999)

Poling's conduct of performing work outside his licensed classification is in violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(23), therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(14) Effective September 1, 2001)

I recommend this count of the file be closed with a finding of no violation.

Count 4: 18 VAC 50-22-260(B)(13) Effective September 1, 2001)

Poling's failure to respond to an investigator seeking information in a complaint filed with the Board is in violation of the Boards 2001 Regulation 18 VAC 50-22-260(B)(13), therefore, I recommend a monetary penalty of \$500.00 be imposed.

By:

Kenneth Hart
Presiding IFF Board Member
Board for Contractors
Date: June 17, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 043204 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

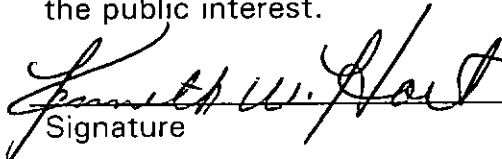
**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Kenneth Hart
2. Title: Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conference on June 17, 2003
5. Nature of Personal Interest Affected by Transaction: none

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.


Signature

6-17-03
Date